

# Terms & Conditions

For the Provision of Training at the Survivex Training Centre

## 1.0 Definitions

**Booking Confirmation** shall mean the booking acceptance paperwork issued by Survivex to the Client. Such booking acceptance paperwork, is inclusive of, but not necessarily limited to, the following bundle of documents: the Booking Confirmation; Joining Instructions; Survivex Map; Self-Screening and Enrolment Forms, these Terms and Conditions; and ,if an OPITO course, the Learning Outcomes

**Course Booking** shall mean the booking of a place(s) on a Survivex training course or a medical assessment (or part thereof or any other service) which shall be delivered at the Survivex Training Centre

**Client** shall mean the person or entity making the Course Booking

**Delegate(s)** shall mean the person(s) attending the Survivex training course(s)

**Parties** shall mean Survivex and the Client

**Survivex** shall mean Survivex Limited, a company incorporated in Scotland with company number SC357717, having its registered office at Kirkhill Commercial Park, Dyce Avenue, Dyce, Aberdeen, AB21 0LQ, Scotland.

**Survivex Training Centre** shall mean the Survivex training centre at Kirkhill Commercial Park, Dyce Avenue, Dyce, Aberdeen, AB21 0LQ, where the training courses are delivered.

**Terms and Conditions or Agreement** shall mean these terms and conditions hereunder for the provision of training courses and medical assessments.

For the avoidance of doubt, any reference to 'training courses' or 'courses' is extended to include medical assessments and all other services, all of which are governed by these Terms and Conditions.

## 2.0 Application

2.1 Unless specifically waived or otherwise agreed in writing between the Parties, these Terms and Conditions shall apply to every Course Booking between the Parties.

## 3.0 Acceptance of Course Booking

3.1 A Course Booking is deemed to be accepted by Survivex upon specific written confirmation of such or the issuing to the Client of the training course Booking Confirmation.

3.2 If a Client uses a purchase order system, the purchase order must be issued to Survivex at the time of the Course Booking. Survivex reserves the right not to accept and confirm a Course Booking until a purchase order has been received.

3.3 Once a Course Booking is accepted, these Terms and Conditions shall govern the relationship between the Parties. The Client shall therefore procure that the Delegate(s) shall act in accordance with and fully comply with these Terms and Conditions.

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### 4.0 Fees and Payment

- 4.1 Survivex's standard course price lists are available at [www.survivex.com](http://www.survivex.com) or on request. Survivex reserves the right to amend these price lists from time to time. However, any written proposals are valid for a period of thirty (30) days from date of issue.
- 4.2 Each course fee within our published price list, or written proposal, is inclusive of course materials; one original course certificate; a two course lunch for the Delegate whilst on course (applicable to whole day courses only); equipment and PPE (save for any Delegate specific PPE requested within the Joining Instructions).
- 4.3 The Booking Confirmation shall detail the total course fees. All prices are payable in GBP (Great British Pounds) and are exclusive of VAT.
- 4.4 Survivex's payment terms are as follows:
  - a) **First Time Buyers and / or Payment Upfront Buyers** shall pay the full amount prior to the commencement of the training course; payment will be accepted via credit/debit card or cash. This payment is non-refundable.
  - b) **Credit Approved Buyers** shall be invoiced on the first day of training course commencement and are payable, without any offset or deduction, within thirty (30) days from date of invoice
- 4.5 Without prejudice to any other right or remedy that it may have, in the event of failure by the Client to make payment by the due date, Survivex may charge interest on the amount owing from the due date at a rate of 8% above the base lending rate from time to time of the Bank of England, accruing on a daily basis until payment is made.
- 4.6 Further, unless specifically agreed otherwise in writing by Survivex, Survivex reserves the right not to issue course certificates until payment of the relevant invoice has been received in full from the Client.

### 5.0 Additional Costs

- 5.1 The Booking Confirmation will detail the cost of the training course and any applicable additional charges. Such additional charges may include (but shall not be limited to) the following:
  - Courier charges for the delivery of documents outside of the United Kingdom
  - Awarding body accreditation fees (e.g. OPITO)

### 6.0 Cancellation Policy

- 6.1 If the Client wishes to cancel a Course Booking, the Client must notify Survivex in writing of such cancellation and the following cancellation charges will be applied (for the avoidance of doubt, **working days** are Monday to Friday):
  - More than five (5) working days before the training course commencement date – no charges will be applied
  - Between five (5) and three (3) working days before the training course commencement date – full charges apply. The Client may also make one free of charge name change or a free of charge date change (please note any date changes must be within a thirty (30) day period of the original training course commencement date)
  - Two (2) or less working days before the training course commencement date – full charges apply and the Client will not be entitled to a free of charge re-booking, name change or date change

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- In the instance where a Delegate fails to turn up for a training course (where notice to cancel as above has not been given) for whatever reason (a “No-show”), full charges will apply and the Client will not be entitled to a free-of-charge re-booking
  
- 6.2 Notwithstanding any of the provisions of clause 6.1 above, where a Client has made an up-front payment, i.e. full payment has been made prior to the training course commencement, and that Client serves notice to cancel the Course Booking, full charges apply and a refund shall not be made. This shall be the case for First Time Buyers or Credit Approved Buyers where upfront payment is made.
  
- 6.3 Survivex reserves the right to cancel or postpone a Course Booking as a result of circumstances beyond its reasonable control. In such an event, Survivex will give as much notice as possible to the Client, however this could be at short notice. The Client shall have the option to reschedule a cancelled or postponed course to a preferred date agreed with Survivex or receive a refund for any payment made to Survivex in respect of any training courses not performed by Survivex.
  
- 6.4 Survivex shall not be liable to the Client or be deemed to be in breach of Contract by reason of any delay, or any failure to perform any of its obligations under this Contract whereby such delay or failure to perform is caused by or contributed to by the Client or the Client’s Delegate(s). For example, additional travel / accommodation costs.

#### 7.0 Certification

- 7.1 A Delegate must complete all modules contained within a course to the standard(s) as specified by Survivex (and the accrediting body, if applicable) to receive certification. If a Delegate fails to complete one or more modules to the relevant standard(s) then the Delegate will be failed and shall not be entitled to certification.
  
- 7.2 In such an event, the Delegate will be labelled ‘Not Yet Competent’ or ‘NYC’. An NYC delegate will have the opportunity to re-sit the failed course module(s) in an attempt to attain certification. There will be an additional charge plus VAT for each module undertaken. The charge per module will depend on the course and the applicable accrediting body.
  
- 7.3 If the failed module forms part of an OPITO accredited course, the Delegate must undertake any re-sits within a three (3) month period from original training course start date. Where there are no specific guidelines regarding when a re-sit must be undertaken and the number of attempts allowed, such decisions will be made by the sole discretion of Survivex.
  
- 7.4 Where Client requests a duplicate certificate, a £22.50 (plus VAT) charge will be applied per certificate.

#### 8.0 Health & Safety

- 8.1 When at the Survivex Training Centre, Delegates must act in full compliance with all applicable health and safety legislation, regulations and policies at all times. Additionally, Delegates must conform to Survivex’s Drugs and Alcohol policy at all times (a copy of the Survivex Drugs and Alcohol policy is on display at the Training Centre).
  
- 8.2 If any Delegate fails to comply with Survivex policies and applicable statutory regulations or behave in a manner deemed unacceptable or inappropriate by Survivex (Survivex being the sole judge), Survivex will have the right to ask the Delegate attending the training course to leave or otherwise be removed from the Survivex Training Centre. In this event, the Delegate will have no right to attend / continue to attend the training course; however the Client shall still be charged in full for the course and shall not be entitled to reimbursement of any sums already paid to Survivex.

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### 9.0 Training Rules

#### 9.1 Delegate Behaviour

Delegates must follow all instructions given by Survivex personnel whilst at the Survivex Training Centre. Bad behaviour from Delegates will not be tolerated at any time. If Delegates do not behave appropriately they will be suspended from the Survivex Training Centre. Should any Delegates be suspended from a training course or be removed from the Survivex Training Centre under this condition, the full cost of the course will still be payable by the Client.

#### 9.2 Punctuality

The Client will be informed of the training course commencement date and time within the Booking Confirmation. Delegates must aim to arrive 10 to 15 minutes prior to the documented course start time. If a Delegate(s) arrives late it shall be at the sole discretion of Survivex as to whether that Delegate may still participate in the training course. Where a Delegate is not accepted onto a course due to being late, the Client will still be charged the full cost of the course. Where the late Delegate is not also the Client, the Client shall be informed as soon as possible of the Delegate's late coming and refusal on to the course.

#### 9.3 Pre-Attendance

Clients and Delegates must read the Booking Confirmation documents carefully. The Delegate will be required to bring all the necessary documentation, clothing, and PPE as detailed within the Booking Confirmation. Failure to do so may result in the Delegate being refused onto the training course.

#### 9.4 Prerequisites

The Client will be notified of any prerequisite requirements within the Booking Confirmation. The Client must ensure that they forward all required / requested documentation to Survivex in a timeous manner prior to the training course start date. Failure to comply with any prerequisite requirements and joining instructions may result in refusal of the Delegate on to the course and the Client will still be charged the full cost of the course.

#### 9.5 Clothing and Personal Property

Survivex shall have no liability to the Client or Delegate(s) attending a training course for loss, damage, costs, expenses or claims for compensation for any personal property belonging to them. Lockers are available to all Delegates attending courses at the Survivex Training Centre (please be advised that a refundable £1.00 coin is required to operate the lockers).

#### 9.6 Medical Fitness

9.6.1 Due to the physical activity content in some of the Survivex training courses, the Client must ensure that a Delegate(s) booked onto a course(s) is medically fit before they attempt to participate. If in doubt, it is recommended that the Client seeks appropriate medical advice prior to commencement of the training course.

9.6.2 Survivex reserves the right to ask any Delegate to complete a Self Declaration of Fitness Form and a Medical Disclaimer.

9.6.3 In the event that a Delegate declares themselves medically unfit on the Self Declaration of Fitness Form / Medical Disclaimer, the following shall apply:

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**9.6.3.1** if the Delegate declares themselves medically unfit during the course enrolment process, the Client will not be charged for the training course / a full refund will be given where upfront payment has been made

**9.6.3.2** if the Delegate declares themselves medically unfit at any time after the course enrolment process, the full cost of the training course shall still apply. In this event, the Delegate will be treated as an 'NYC' as per **Section 7.0** above, however no additional module charges shall be applied

**9.6.4** If a Delegate has a disability, the Client must notify Survivex at the time of booking and Survivex will endeavour to overcome this to the best of its ability.

#### **9.7 Language Translation**

Survivex training courses are delivered in English. If Delegates attending a training course are not competent in the English language (oral and written), it shall be the Client's responsibility to advise Survivex at the time of booking and raise this issue and any concerns. In such an event, Survivex will allow the Client to organise a translator (at the Client's cost) to accompany the Delegates during the training course. Please be advised that in this situation the translator will not receive a training course certification. Any translator acting for the Client must abide by these terms and conditions and the Client will be responsible and liable for all actions or failure to act by the translator. Please also be advised that STCW and HSE accredited courses must be delivered in English and a translator will not be accepted.

#### **9.8 Special Requirements**

The Client must specify any special requirements at the time of booking, e.g. dietary, disability, religious etc. If these are not made known to Survivex at the time of booking then Survivex will not be responsible and liable for any failure to meet these requirements at the time of course delivery.

#### **9.9 Car Park**

Survivex accepts no responsibility for loss or damage to Client or Delegate vehicles whilst parked in the Survivex car park, The Client and /or Delegate parks at their own risk.

#### **9.10 Delegate Suitability**

Survivex reserves the right to ask a Delegate attending a training course to leave or otherwise be removed from the Survivex Training Centre for whatever reason. In this event, the Delegate will have no right to attend / continue to attend the training course and the Client will not be charged for the training course / a full refund will be given where upfront payment has been made.

Should a Delegate be asked to leave / be removed from the Survivex Training Centre under this clause, the Delegate will be notified in writing referring to this clause 9.9.

### **10.0 Liability**

Throughout this clause **10.0**, reference to 'Survivex' shall also include its respective directors, officers and employees (including any agency personnel). Reference to 'Client' within this Clause **10.0** shall also include its Delegates, respective directors, officers and employees (including any agency personnel) and contractors.

**10.1** The Client shall be responsible for and shall save, indemnify, defend and hold harmless Survivex from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of:

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- (a) Loss of or damage to the property of the Client arising from, relating to or in connection with the provision of training courses by Survivex at the Survivex Training Centre under this Agreement; and
  - (b) Personal injury including death or disease to the Client arising from, relating to or in connection with the provision of training courses by Survivex at the Survivex Training Centre under this Agreement;
  - (c) Personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Client
- 10.2** Survivex shall be responsible for and shall save, indemnify, defend and hold harmless the Client from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of:
- (a) Loss of or damage to the property of Survivex arising from, relating to or in connection with the provision of training courses by Survivex at the Survivex Training Centre under this Agreement; and
  - (b) Personal injury including death or disease to any person employed by Survivex arising from, relating to or in connection with the provision of training courses by Survivex at the Survivex Training Centre under this Agreement;
  - (c) Personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Survivex
- 10.3** All of the indemnities given above (save for **10.1(c)** and **10.2(c)** and clause **10.6** below, shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim under delict, contract or otherwise at law.
- 10.4** Notwithstanding the above, nothing in this Agreement shall limit or exclude the liability of Survivex for the death or personal injury to a Delegate, who is not an employee of a Client, as a result of the negligence of Survivex. For clarity, this provision relates to a Delegate who has made the Course Booking for his own avail and with personal funds. In such an event, Survivex's total cumulative liability to the Delegate in respect of any claim arising from or relating to the performance or non-performance of the training course shall be limited to the total cost of the relevant training course.
- 10.5** Additionally, nothing in this Agreement shall limit or exclude the liability of Survivex for any damage or liability incurred by the Client or a Delegate as a result of fraud or fraudulent misrepresentation by Survivex.
- 10.6** Subject to clauses **10.4** and **10.5**, Survivex shall not be liable to the Client or Delegate for loss of profits; loss of business; loss of anticipated savings; loss of contract; loss of goods; loss of use; depletion of goodwill or similar losses; and any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

### **11.0 Data Protection and the General Data Protection Regulation (GDPR)**

- 11.1** In this clause, references to "personal data", "special category data", "data controller", "data processor" and "lawful basis" are as defined in the General Data Protection Regulation (GDPR). Survivex shall comply at all times with all relevant provisions of the GDPR and shall do nothing that causes, or which may cause, Survivex to breach any of its obligations under the regulation.
- 11.2** To the extent that Survivex acts as a data controller, or a data processor as the case may be, in respect or any personal or special category data pursuant to these Terms and Conditions, Survivex shall:
- 11.2.1** only process such data where it has a lawful basis to do so;
  - 11.2.2** only process such data to the extent necessary to enable it to fulfil its obligations under this Agreement;



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- 11.2.3 ensure that all reasonable and appropriate security measures are in place for the protection of personal data; and
- 11.2.4 shall only retain such data for as long as is necessary to perform its obligations under this Agreement, subject to statutory retention and limitation periods
- 11.3 In respect of special category data, in addition to a lawful basis for processing under Article 6 of the GDPR, Survivex shall also have a condition for processing under Article 9.
- 11.4 Please see our [Privacy Notice Survivex Customer](#) and [Privacy Notice Survivex Medical](#) documents for detailed information on Survivex's data processing activities and Delegate / Client rights in relation to personal data.

### 12.0 Intellectual Property

- 12.1 All intellectual property rights (including, but not limited to, copyright, copyright in training materials, design rights, trademarks, software), used, created or embodied in or arising out of or in connection with the provision of training services by Survivex shall remain the sole property of Survivex at all times. Such shall be the case for registered or unregistered intellectual property rights. Survivex shall provide certain training materials to the Delegate(s) for their personal use and fulfilment of the training course only. The reproduction, distribution, modification, adaptation, translation or copying of Survivex materials (in whatever form) is strictly prohibited without the prior written consent of Survivex.

### 13.0 Non Solicitation

- 13.1 The Client acknowledges the investment made by Survivex in the training and development of its staff to deliver the training courses under this Agreement. The Client agrees that it shall not make any current or future offer of employment, for a period of twelve (12) months from the date of course booking, to any member of Survivex's staff without prior written consent of Survivex. Where a member of Survivex's staff accepts an offer of employment as a result of solicitation by the Client, then the Client agrees to pay to Survivex such sum representing one hundred per cent (100%) of the annualised earnings of that employee whilst working for Survivex. For the purposes of this clause, reference to the 'Client' includes any person or entity to which such Survivex employee is introduced to (directly or indirectly) by the Client including other group companies.

### 14.0 Force Majeure

- 14.1 Neither the Client nor Survivex shall be in breach of these Terms and Conditions nor liable for any failure or delay in performance of its obligations (save for payment of training courses) to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence such as an act of God, fire, expulsion, embargo, terrorism, civil disturbance, epidemics, strikes or industrial action.

### 15.0 Severance

- 15.1 If any provision of part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

### 16.0 Applicable Law

- 16.1 These Terms and Conditions and any dispute or claim arising here from or connected herewith shall be governed by and construed in accordance with the laws of Scotland. The Parties irrevocably agree that the courts of Scotland shall have

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exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement or its subject matter.